



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Part 383

Commercial Driver's License Standards: Regulatory Guidance Concerning the Issuance of Commercial Learner's Permits

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Regulatory guidance.

SUMMARY: FMCSA announces regulatory guidance clarifying that State Driver Licensing Agencies (SDLAs) may agree to facilitate the commercial learner's permit (CLP) application process and to administer the commercial driver's license (CDL) general knowledge test to individuals who are not domiciled in the State. Today's guidance makes clear that SDLAs may accept applications for CLPs and administer the general knowledge test to individuals taking commercial motor vehicle driver training in that State, but who are not domiciled there, provided that: the SDLA administering the general knowledge test transmits the test results directly, securely, and electronically to the applicant's State of domicile; and the State of domicile agrees to accept the test results and issue the CLP. While today's guidance is in answer to general knowledge testing as addressed in FMCSA regulations, we note that this regulatory guidance is consistent with the Agency's October 13, 2016, final rule which amended the CDL regulations to ease the transition of military personnel into civilian careers driving commercial motor vehicles (CMVs).

DATES: *Regulatory Guidance:* The regulatory guidance is applicable August 3, 2017. The guidance expires August 3, 2022.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

On October 13, 2016, FMCSA published "Commercial Driver's License Requirements of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Military Commercial Driver's License Act of 2012" (2016 Final Rule) (81 FR 70634). This rule allows a State to accept applications from active duty military personnel who are stationed in that State as well as administer the written and skills test for a CLP or CDL. States that choose to accept such applications are required to transmit the test results electronically to the State of domicile of the military personnel. The State of domicile may then issue the CLP or CDL on the basis of those test results. During the rulemaking proceeding, the American Trucking Associations (ATA) expressed an interest in allowing all drivers to take both the written and skills tests outside their State of domicile and requested that FMCSA issue a Supplemental Notice of Proposed Rulemaking on that subject. The FMCSA declined to address the issue at that time. It should be noted, however, that States of domicile are already required by 49 CFR 383.79 to accept skills tests administered by another state. Subsequently, in January 2017, the ATA requested regulatory guidance clarifying that SDLAs may accept the results of knowledge tests taken in another State to ease the travel burden on civilian CLP applicants attending a truck driver training school outside of their State of domicile. Based upon a review of the CDL statutes and the 2016 Final Rule, FMCSA has determined that regulatory guidance would clarify the flexibility allowed under the existing statutes and regulations.

Specifically, section 383.73(a)(2)(i) mandates that a State “require the applicant to make the certifications, pass the tests, and provide the information as described in §383.71(a)(2).” Neither §383.71 nor §383.73 requires that these actions take place in the State of domicile. However, the State of domicile must continue to comply with §383.73(h) by creating the Commercial Driver Licensing Information System (CDLIS) record and issuing the physical CLP or CDL.

II. Regulatory Guidance

Based on the forgoing, FMCSA issues the following guidance.

Regulatory Guidance to 49 CFR Part 383 – Commercial Driver’s License Standards

Section 383.73 State Procedures

Question: May States accept applications for a CLP from individuals who are not domiciled in the State but who receive CDL training within the State, and administer the knowledge test to these individuals?

Guidance: Yes. Section 383.73 does not prohibit States from accepting and processing CLP applications from out-of-State applicants (e.g., individuals who are not domiciled in the State but who receive training there) and administering the knowledge test to such applicants, provided there is agreement between the testing State and the applicant’s State of domicile. In particular: (1) the testing State must administer the general knowledge test in accordance with 49 CFR part 383, subparts F, G, and H; (2) transmission of general knowledge test results and any other supporting documentation shall occur by a direct, secure, electronic means to the State of domicile; and (3) in accordance with § 383.73(h), only the State of domicile may create the CDLIS record and issue the physical CLP. Ultimately, the responsibility for compliance with all requirements of § 383.71 and § 383.73 remains with the State of domicile. Under 49 CFR

383.79, States of domicile are already required to accept skills test results from other States; this guidance clarifies that States of domicile may (but are not required to) accept knowledge test results from other States in the same manner. This guidance shall not be construed to allow a State to issue a CLP or CDL to an individual who is not domiciled in that State. Both the CLP and the CDL must be issued by the State of domicile, as required by 49 U.S.C. 31311(a)(12)(A).

Expiration Date for the Regulatory Guidance

In accordance with the requirement in Section 5203(a)(2)(A) of the Fixing America's Surface Transportation (FAST) Act, Pub. L. 114-94, 129 Stat. 1312, 1535, Dec. 4, 2015, the guidance above will be posted on FMCSA's website, <http://www.fmcsa.dot.gov> and expires no later than August 3, 2022. The Agency will then consider whether the guidance should be withdrawn, reissued for another period of up to five years, or incorporated into the safety regulations at that time.

Issued on: July 26, 2017.

Daphne Y. Jefferson,
Deputy Administrator

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